

D.T.E. 05-8

November 1, 2005

Petition of KeySpan Energy Delivery New England for approval of service agreements between KeySpan Energy Delivery New England and Distrigas of Massachusetts LLC, pursuant to G.L. c. 164, § 94A.

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FOR: KEYSpan ENERGY DELIVERY NEW ENGLAND  
Petitioner

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One Ashburton Place  
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Intervenor

## I. INTRODUCTION

On February 28, 2005, KeySpan Energy Delivery New England<sup>1</sup> (“KeySpan” or “Company”), pursuant to G.L. c. 164, § 94A, submitted a petition to the Department of Telecommunications and Energy (“Department”) for approval of service agreements between KeySpan and Distrigas of Massachusetts, LLC (“DOMAC”). The petition was docketed as D.T.E. 05-8. In support of its petition, the Company presented the prefiled testimony of Elizabeth Danehy Arrangio, director of gas supply planning.

On March 31, 2005, pursuant to notice duly issued, the Department conducted a public hearing to afford interested persons the opportunity to comment on KeySpan’s proposal. The Attorney General of the Commonwealth of Massachusetts (“Attorney General”) filed a notice of intervention as of right pursuant to G.L. c. 12, § 11E. The evidentiary record includes 24 exhibits.

## II. DESCRIPTION OF THE COMPANY’S PROPOSAL

The Company seeks approval of the renewal of four long-term peaking supply contracts with DOMAC (Exh. EDA-1, at 5). Two of the contracts FLS160 and FCS064, will serve to replace existing contracts that expire on October 31, 2005 (id. at 4-5).<sup>2</sup> The Company and DOMAC negotiated amendments and contract extensions to the remaining two contracts,

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<sup>1</sup> KeySpan comprises of Boston Gas Company, Essex Gas Company, and Colonial Gas Company.

<sup>2</sup> Existing contracts were previously approved in KeySpan Energy Delivery New England, D.T.E. 02-48 (2003).

FCS027 and FLS129. Absent the extensions, the FCS027 and FLS129 contracts would have expired October 31, 2006 and October 31, 2008, respectively (id. at 5,7).

The Company states that the FLS160 contract replaces the FLS157 contract and is for effect November 1, 2005 through October 31, 2010 (Exh. EDA-1, at 5 and Exh. EDA-2, at 1). The Company indicates that the FLS160 contract features a maximum daily quantity (“MDQ”) of 27,000 MMBtu and an annual contract quantity (“ACQ”) of 1,000,000 MMBtu (or 1,027,000 MMBtu in any leap year) with the following monthly maximum quantities: up to 150,000 MMBtus in November, up to 275,000 MMBtus in December; up to 300,000 MMBtus in January; up to 275,000 MMBtus in February; and up to 150,000 MMBtus in March (Exh. EDA-2, at 1).

The Company states that the FCS064 contract replaces the FCS062 contract and is for effect November 1, 2005 through October 31, 2010 (Exh. EDA-1, at 5 and Exh. EDA-2, at 1). The Company indicates that the FCS064 contract features an MDQ of 15,000 MMBtu and an ACQ of 3,335,000 MMBtu (or 3,350,000 MMBtu in any leap year) (Exh. EDA-2, at 1). The Company also notes that the contract limits total winter (November-March) liquid quantity to 825,000 MMBtus (id.) .

The Company explains that the FCS027 contract features an MDQ of 6,000 MMBtu and an ACQ of 906,000 MMBtu (or 912,000 MMBtu in any leap year) (id. at 2). The Company notes that the term of the FCS027 agreement is extended through October 31, 2010, and that the proposed third amendment to the FCS027 agreement will allow: (1) deliveries of liquid to any KeySpan facility, including the KLNG facility in Providence, Rhode Island; and

(2) deliveries of vapor at the interconnection of DOMAC's facilities with Boston Gas's distribution system in Everett on a secondary basis (Exh. EDA-1 at 6). The Company explains that, prior to the amendment, liquid deliveries under this contract were restricted to KeySpan's Haverill facility or other former Mansfield Consortium member facilities (id.). The Company notes that the adjusted pricing calculations for the extended term are described in the fourth amendment (Exh. EDA-1 at 6 and DTE 1-1).

The Company explains that the FLS129 contract does not contain an MDQ restriction but has an ACQ of 3,500,000 MMBtu (Exh. EDA-2 at 1). The Company asserts that the third amendment to the FLS129 agreement allows KeySpan to seek a one-time price redetermination for the three-year extension period in the event that the following conditions occur: (1) a new liquified natural gas ("LNG") terminal is placed into service which has sufficient liquid truck loading capacity to replace the volumes provided by DOMAC under the FLS129 agreement; and (2) the Company is able to demonstrate that it can obtain the quantities of LNG provided by DOMAC under the FLS129 agreement from an alternative source at a lower delivered price (Exh. EDA-1, at 7,8). The Company notes that in exchange for the price redetermination option, the term of the agreement was extended through October 31, 2011 (Exh. DTE 1-2).

### III. STANDARD OF REVIEW

In evaluating a gas utility's resource options for the acquisition of commodity resources as well as for the acquisition of capacity under G.L. c. 164, § 94A, the Department examines whether the acquisition of the resource is consistent with the public interest. Commonwealth Gas Company, D.P.U. 94-174-A at 27 (1996). In order to demonstrate that the proposed

acquisition of a resource that provides commodity and/or incremental resources is consistent with the public interest, a local distribution company (“LDC”) must show that the acquisition (1) is consistent with the company's portfolio objectives, and (2) compares favorably to the range of alternative options reasonably available to the company at the time of the acquisition or contract renegotiation. Id.

In establishing that a resource is consistent with the company's portfolio objectives, the company may refer to portfolio objectives established in a recently approved forecast and requirements plan or in a recent review of supply contracts under G.L. c. 164, § 94A, or may describe its objectives in the filing accompanying the proposed resource. Id. In comparing the proposed resource acquisition to current market offerings, the Department examines relevant price and non-price attributes of each contract to ensure a contribution to the strength of the overall supply portfolio. Id. at 28. As part of the review of relevant price and non-price attributes, the Department considers whether the pricing terms are competitive with those for the broad range of capacity, storage and commodity options that were available to the LDC at the time of the acquisition, as well as with those opportunities that were available to other LDCs in the region. Id. In addition, the Department determines whether the acquisition satisfies the LDC's non-price objectives including, but not limited to, flexibility of nominations and reliability and diversity of supplies. Id. at 29. In making these determinations concerning a gas supply acquisitions, the Department considers whether the LDC used a competitive solicitation process that was fair, open and transparent. The Berkshire Gas Company,

D.T.E. 02-56, at 9 (2002); Bay State Gas Company, D.T.E. 02-52, at 8 (2002); KeySpan Energy Delivery New England, D.T.E. 02-54, at 9 (2002); The Berkshire Gas Company, D.T.E. 02-19, at 11 (2002).

#### IV. ANALYSIS AND FINDINGS

In determining whether the proposed contracts are consistent with the public interest, the Department first evaluates their consistency with the portfolio objectives reported in the Company's most recently approved supply plan, KeySpan Energy Delivery New England, D.T.E. 01-105 (2003). In the past, the Department has found plans to use propane and LNG resources to meet seasonal needs in excess of pipeline entitlement to be reasonable. Boston Gas Company, D.P.U./D.T.E. 97-81 at 49 (2000). The proposed DOMAC contracts either replace or extend existing contracts approved in D.T.E. 01-105 and whose volumes were demonstrated at that time to be necessary in order to reliably meet peak season and peak day requirements D.T.E. 01-105, at 55. The record indicates that these volumes will continue to be necessary for the Company for the foreseeable future (Exh. Sch. EDA-3). The Department concludes that the renewal and amendments to the DOMAC contracts will enable the Company to continue to meet its peak requirements and, therefore, the Department finds the agreements to be consistent with KeySpan's portfolio objectives.

In addition, the Department finds that the proposed contracts with DOMAC represent the least-cost alternative available to the company to satisfy its LNG peaking requirements. The record demonstrates that any alternative LNG facilities are located significantly further from the Company's distribution system than DOMAC and that the proximity of DOMAC's

LNG terminal in Everett, Massachusetts helps minimize the transportation cost and lowers the total delivered cost for customers (Exh. AG 1-6).<sup>3</sup> The Company explained that it did not issue a request for proposal for these services but will monitor proposals for new LNG projects to determine if opportunities exist to lower costs for customers (id.). Additional features of the agreements which contribute towards a least-cost resource supply are: (1) the price redetermination option of the FLS129 contract; (2) the commodity component of the rates is tied to known and reliable indices of gas prices; (3) the average commodity rate over the contract term is capped at the average of the Seller's FERC-approved rate schedules FLSS; and (4) the call payment rate cannot exceed the call payment cap in DOMAC's rate schedule as approved by the Federal Energy Regulatory Commission (Exh. EDA-1, at 7-8, 12).

Furthermore, the Company successfully negotiated amendments to the FCS027 contracts that significantly improve KeySpan's portfolio flexibility. The ability to take deliveries of liquid to any KeySpan facility, and take deliveries of vapor at the interconnection of DOMAC's facilities with Boston Gas's distribution system in Everett will allow the Company to better manage its overall portfolio of resources (id. at 6).

The Company has demonstrated that the renewal and amendments to the DOMAC contracts are consistent with the Company's portfolio objectives, and compare favorably to the range of alternative options reasonably available to the Company. Therefore, the Department

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<sup>3</sup> The alternative LNG facilities include: NSTAR's LNG facility in Hopkinton, Massachusetts; Philadelphia Gas Works's facility in Pennsylvania; Transcontinental Gas Pipeline's facility in Carlstadt, New Jersey; and Gaz Metropolitan's facility in Montreal, Canada (Exh. AG 1-6).

finds the Agreements to be consistent with the public interest and approves the Company's proposal.

V. ORDER

Accordingly, after due notice and consideration, it is

ORDERED: That the gas service agreements between KeySpan Energy Delivery New England and Distrigas of Massachusetts, LLC filed on February 28, 2005 consisting of contract numbers FLS129, FLS 160, FCS 064 and FCS027 are hereby APPROVED.

By Order of the Department,

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Paul G. Afonso, Chairman

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James Connelly, Commissioner

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W. Robert Keating, Commissioner

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Judith F. Judson, Commissioner

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Brian Paul Golden, Commissioner

Appeal as to matters of law from any final decision, order or ruling of the Commission may be taken to the Supreme Judicial Court by an aggrieved party in interest by the filing of a written petition praying that the Order of the Commission be modified or set aside in whole or in part.

Such petition for appeal shall be filed with the Secretary of the Commission within twenty days after the date of service of the decision, order or ruling of the Commission, or within such further time as the Commission may allow upon request filed prior to the expiration of twenty days after the date of service of said decision, order or ruling. Within ten days after such petition has been filed, the appealing party shall enter the appeal in the Supreme Judicial Court sitting in Suffolk County by filing a copy thereof with the Clerk of said Court. (Sec. 5, Chapter 25, G.L. Ter. Ed., as most recently amended by Chapter 485 of the Acts of 1971).

